

MEMORANDUM OF UNDERSTANDING

This is an agreement between the Montana Department of Corrections and the Montana Department of Justice.

Recitals:

The Department of Corrections ("DOC"), and entities contracting with DOC, operate secure facilities and community programs in multiple counties across the state of Montana.

Allegations of criminal conduct against incarcerated offenders and staff employed in these facilities requires investigation by trained and qualified personnel.

DOC employs trained and qualified personnel to conduct investigations, to decrease the demand on local law enforcement resources, and to resolve allegations in a timely and efficient manner.

As a result of alleged criminal activities occurring within the premises of the DOC facilities, and the need to investigate them, the DOC may possess information that may be of mutual interest to the Department of Justice ("DOJ") and other members of the law enforcement community as well as require information in the possession of DOJ and other members of the law enforcement community.

Agreement:

The DOC and DOJ therefore agree as follows:

1. Appointment of Agents – Scope of Authority. DOJ, by designation of the Attorney General, will appoint qualified DOC personnel as criminal investigative "agents" under the provisions of § 44-2-111, MCA, et seq. to investigate alleged criminal violations by offenders incarcerated or persons employed in a DOC or DOC-contracted facility.
 - a. DOC agents shall be qualified by experience, training, and high professional competence in criminal investigation and meet the requirements of § 7-32-303, MCA.
 - b. As a result of their agent status, DOC investigators shall be deemed "peace officers" as defined in § 46-1-202(17), MCA and will have the duty to maintain public order and ability to make arrests for offenses within the scope of this agreement.

- c. DOC agents shall operate under the supervision and authority of the administrator of the Investigations Bureau and shall undertake no investigation without proper authorization of said administrator.
 - d. The investigative authority granted to DOC agents is not coextensive with the provisions of § 44-2-115, MCA but rather, limited to the investigative authority set forth in this section.
- 2. Criminal Justice Agency Recognition & Information Sharing. The DOC, when engaged in correctional supervision or rehabilitation of accused persons or criminal offenders, is a criminal justice agency as defined under 44-5-103(2) and -103(7) (b), MCA. The parties agree to collect and disseminate confidential criminal justice information solely in accordance with the provision so Title 44, Chapter 5, pt. 2 & 3, MCA.
- 3. Interagency Assistance. DOC agents will have the same cooperation of state agencies set forth in § 44-2-116, MCA regarding providing transportation, educational, and laboratory facilities for their use when so requested. Further,
 - a. The DOJ will allow participation by the DOC agents in its training opportunities.
 - b. The DOJ will provide prosecutorial legal counsel to assist in the determination of the necessity to issue any investigative subpoena
- 4. Written Policies
 - a. In accordance with § 44-2-117, MCA, DOC will adopt written policy that prohibits racial profiling and defines the elements of racial profiling.
 - b. DOC shall Dissemination of confidential criminal justice information.
- 5. Quarterly Meetings & Statistical Report. No later than the 1st day of each quarter, the DOC Investigations Bureau shall submit a report to the DOJ Criminal Investigative Bureau Chief identifying the number of cases and their status. In person meetings between the DOC Investigations Bureau Chief and DOJ Criminal Investigative Bureau Chief shall take place in a reasonable period after the submission of each quarterly report.
- 6. Employment Status of DOC Investigators. The DOC investigators are employed solely by the Department of Corrections and are subject only to its supervision. This agreement may be amended in writing by mutual agreement of the parties. The term of the agreement is for one year beginning on July 1, 2008, unless terminated earlier by written notice.

DEPARTMENT OF CORRECTIONS


Mike Ferriter, Director

Date: 6-12-08

DEPARTMENT OF JUSTICE


Mike Batista, Administrator
Division of Criminal Investigation

Date: 6/11/08